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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,073	09/05/2003	Austun Kessler	82503	8337

27015 7590 12/08/2005

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EXAMINER	
HONG, JOHN C	

ART UNIT	PAPER NUMBER
3726	

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/656,073	KESSLER, AUSTUN	
	Examiner	Art Unit	
	John C. Hong	3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (AAPA) in view of Riedi (U.S. Patent 4706936) and Scot et al. (U.S. Patent 3014494).

AAPA as found on page 2, line 14 - page 4, line 3, of the specification, discloses a method of routine pit stop, the method comprising the steps of: providing an assigned pit area; providing use of a hydraulic jack within the pit area; providing at least two tire changers within the pit area; positioning the first jackman on the track side of a racing automobile after the automobile comes to rest in the pit area, with one side of the automobile towards the track and the other side of the automobile towards the pit wall, by the jackman passing around the front of the automobile from the pit wall side to the track side while carrying the jack; lifting the track side of the automobile by the first jackman using the hydraulic jack until the tires on the track side have been changed by the tire changers; lowering the track side of the automobile by the first jackman releasing the hydraulic jack; lifting the pit wall side of the automobile by the first jackman using the hydraulic jack until the tires on the pit wall side have been changed by the tire changers; exiting the pit area by the first jackman taking a path

behind the automobile and over the pit wall; lowering the pit wall side of the automobile by the first jackman releasing the hydraulic jack, signifying to the automobile driver that the pit stop has been completed and the driver may return to the race track.

But AAPA fails to teach the steps of : providing at least two jackmen within the pit area; passing the hydraulic jack, handle first, from the first jackman on the track side of the automobile over a predetermined portion of the automobile to the second jackman on the pit wall side of the automobile; and lifting the pit wall side of the automobile by the second jackman using the hydraulic jack until the tires on the pit wall side have been changed by the tire changers.

Riedi teaches the step of employing 2 operators for lifting and disposing device for portable box like articles (Fig.1; Abstract; col. 5, lines 12-45).

Scott et al. teach the step of using the same tool with plural workers. (Fig. 1; col. 1, lines 48-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the steps of Reidi and the steps of Scot et al. on the method of AAPA so as to quickly fulfill the work with accuracy.

Regarding Claims 2-4, passing the tool over the various places of the vehicle between 2 operators and employing mechanical means like hoist on the platform which is supported by telescoping legs are well known in the art and It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ these steps on the AAPA so as to quickly fulfill the work with accuracy.

Response to Arguments

3. Applicant's arguments filed 9/26/05 have been fully considered but they are not persuasive. Regarding Applicant's argument on " obviousness cannot be established by combining art to produce the claimed invention absent some teaching or suggestion supporting the combination", It is not required that the prior art disclose or suggest the properties newly-discovered by an applicant in order for there to be prima facie case or obviousness. See In re Dillon, 919 F.2d 688, 16 USPQ2d 1897, 1905 (Fed. Cir. 1990). Moreover, as long as some motivation or suggestion to combine the reference is provided by the prior art reference as a whole, the law does not require that the references be combined for the reasons contemplated by the inventor. See In re Beattie, 974 F.2d 1309, 24 USPQ2d 1040 (Fed. Cir. 1992); In re Wilder, 429 F.2d 447, 166 USPQ 545 (CCPA 1970); And regarding "References specifically do not recognize the advantages discussed in Applicant's application, namely safety and specifically quantified time savings during pit stop intervals of automobile racing", The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In this regard, a conclusion of obviousness maybe based on common knowledge and common sense of the person of ordinary skill in the art without any specific hit or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969). It is common sense that the work time is saved if the same tool is arranged to use with plural worker without moving around.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John C. Hong whose telephone number is 571-272-4529. The examiner can normally be reached on M-F(07:00-16:30)First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John C. Hong
Primary Examiner
Art Unit 3726

jh
December 05, 2005